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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/728,146

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Larry Lunz

2300

7590

05/11/2006

George R. Royer  
Suite 416  
316 N. Michigan Street  
Toledo, OH 43624

EXAMINER

CROSLAND, DONNIE L

ART UNIT

PAPER NUMBER

2612

DATE MAILED: 05/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/728,146

Applicant(s)

LUNZ, LARRY

Examiner

DONNIE L. CROSLAND

Art Unit

2612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

Claims 1-3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1, line 9, "to transfer" should read –to transmit-; line 10, there is no function recited for "secondary electronic transmitter means"; line 11, "transmitter means" has no antecedent basis; line 12, "said secondary transmitter" has no antecedent basis; lines 13 and 14, "said secondary transmitters" has no antecedent basis; lines 15 and 16, "said primary transmitter means" has no antecedent basis; line 19, "radio transmitter" is indefinite and should be recited in terms of the secondary electronic transmitter means.

In claim 2, line 11, "said secondary transmitter means" has no antecedent basis; line 12, the phrase "radio transmission means" has no function as required in the means plus function format; line 16, the phrase "transmitter means" lacks function; line 17, "primary transmitter" has no antecedent basis; line 18, "frequency means" has no function; lines 19 and 20, "said radio receiver" has no antecedent basis; line 23, "said said" is indefinite; line 24, "transmission means" lacks function.

In claim 3, line 1, the phrase "an the" is indefinite; line 8, there is no function for the recited "electronic transmitter means"; line 9, "said transmitter" has no antecedent basis; lines 9-11, the phrases "the electronic receiver" and "said secondary transmitter" have no antecedent basis; line 12, "said secondary transmitters" has no antecedent basis; line 14, "said primary transmitter means" has no antecedent basis; line 15, "radio

receiver" has no antecedent basis; line 17, "a radio transmitter" has no antecedent basis.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoshen, already of record.

Hoshen shows the electronic fence structure to monitor and confine the presence of an individual 24 in a given area 12 comprising

a spatial area (cell area) in which the individual 24 is to be confined for safety purposes, the area having an outer perimeter enclosing the area (cell);

a plurality of electronic sensors in the form of cell sites 1-5 dispersed around the perimeter of the spatial area as defined by the cell, each of the electronic sensors

(cell sites) having an electronic radio receiver sensitive to a designated radio frequency signal (predetermined frequency broadcasted by locator device 22, col. 4, lines 5-7); and

secondary electronic transmitter means on each of the electronic sensors 1-5, with each transmitter being electronically interconnected to the electronic receiver on each of the sensors 1-5, with each secondary transmitter on each of the electronic sensors having a different sending frequency than the other secondary transmitters, (such different sending frequency is analogous to the delivering of data from the sensor (cell site) to telephone switching office 14 to database system 16);

primary electronic transmitter means 22 worn by the individual 24 in the area, which the primary transmitter means has a radio frequency that can be relayed to each radio receiver on the electronic sensor (cell sites), col. 4, lines 5-15;

secondary radio receiver means 22 used by a second individual 28 to detect a signal from a radio transmitter on one or more of the electronic sensors (cell sites 1-5), col. 3, lines 40-56, col. 4, lines 24-36;

telephonic means 14 connected to each of the sensors (cell sites 1-5) to relay a telephonic message to a central emergency center 16 for help whenever any of the electronic sensors (cell sites 1-5) are activated, col. 3, lines 39-67, col. 5, lines 26-42.

It is noted that the prior art reference fails to use the claimed terms such as "electronic fence" and "electronic sensors".

However, the artisan recognizes that the spatial area 12 as determined by cell sites 1-5 clearly defines an electronic fence that monitors and confines individuals.

The artisan recognizes that each cell cite 1-5 are sensors for the monitoring of the individuals in the cell or spatial area 12 as well as the bidirectional communication of data through a telephonic apparatus 14 to a central emergency center as well as another individual.

The claimed electronic sensors are analogous to the cell sites 1-5, which are functionally equivalent.

### ***Response to Arguments***

Applicant's arguments filed 3-1-06 have been fully considered but they are not persuasive. The monitor of Hoshen would not need to constantly send electronic transmission since Hoshen suggests in the alternative that the primary electronic transmitter 22 worn by the individual may broadcast a radio signal for a predetermined period of time in response to a poll message, col. 4, lines 5-15.

Also, database system 16 establishes a frequency of polling to indicate how frequently individuals must be watch, col. 6, lines 17-53.

Accordingly, the artisan clearly realizes from the teachings of Hoshen, that once a poll is initiated, the individuals may be monitored on a continued or constant basis.

In conclusion it is felt that an electronic fence is established by cells 12 whereby individuals 24 and 28 within these cells are monitored by cell sites 1-5 which includes the conventional transmitter/receiver for relaying the monitored data from the individuals to an emergency center as well as receiving data from an emergency center to the monitored individual. The system also relays monitored information to an individual (adult) 24 or 28.

The sensor as claimed reads on the reference cell cites 1-5.

### ***Conclusion***


**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **DONNIE L. CROSLAND** whose telephone number is 571-272-2980. The examiner can normally be reached on Mon-Thru, 9:30a-6:00p.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, MICHAEL HORABIK can be reached on 571-272-3068. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
DONNIE L. CROSLAND  
Primary Examiner  
Art Unit 2612

DLC ✓  
5-8-06